

Executive Summary

James E. Franklin
Senior Vice President
Cogentrix Energy, Inc.
on behalf of Virginia Independent Power Producers, Inc.

Committee on Commerce Subcommittee on Energy and Power
Richmond, Virginia
April 18, 1997

Independent power producers have built and operate approximately 3,500 megawatts of generating capacity in Virginia. Annually, independent generators produce and sell to Virginia Power approximately 25 percent of the electricity the utility sells to its customers. Independent power producers have invested approximately \$3.5 billion in Virginia.

Restructuring and providing customers competitive choices will bring tremendous benefits to consumers nationwide and in Virginia. The benefits of competition are obvious. We favor the enactment of comprehensive federal legislation as quickly as practicable. Federal legislation is needed that will allow the flow of the free market economy to deliver the full range of benefits to consumers.

The recovery of stranded costs perhaps represents the most visible problem. **Utilities are entitled to recover their prudently-incurred stranded costs. Contracts entered into by utilities and independent developers should be honored.**

Industries across America entered into thermal contracts with independent power producers believing, as we do, that “a contract is a contract,” and that good faith commitments would be honored.

There is a very valid role for the federal government to play in order to manage the establishment of a truly competitive national market for electricity.

Remarks of
James E. Franklin
Senior Vice President
Cogentrix Energy, Inc.
on behalf of Virginia Independent Power Producers, Inc.

Before the U. S. House of Representatives
Committee on Commerce Subcommittee on Energy and Power
Richmond, Virginia
April 18, 1997

Good morning, Mr. Chairman. My name is Jim Franklin. I am senior vice president of Cogentrix Energy, Inc., a privately-owned independent power producer, active in both domestic and international markets with over 1200 megawatts of generating capacity in operation.

I am speaking today on behalf of Virginia Independent Power Producers, a trade association representing independent electricity generators in Virginia.

Independent power producers have built and operate approximately 3,500 megawatts of generating capacity in Virginia. Annually, independent generators produce and sell to Virginia Power approximately 25 percent of the electricity the utility sells to its customers.

Independent power producers have invested approximately \$3.5 billion in Virginia to assist Virginia Power in meeting the needs of its customers.

We appreciate the opportunity to speak today in favor of the movement toward competition in the electricity industry. We believe that restructuring and providing

customers competitive choices will bring tremendous benefits to consumers nationwide and in Virginia. We also believe that the movement towards and establishment of a free market will provide new business opportunities, efficiency improvements and other very real benefits for all Americans.

We believe the benefits of competition are obvious. Across the nation and here in Virginia, regulated electric utilities are busily restructuring their businesses, scrambling with success to find different and better ways to provide electricity and energy services to customers.

Here in Virginia, the largest electric utility has in the last several years reduced its workforce by 25 percent and drastically reduced its operating costs, while still providing reliable electric service to its customers. Similar efficiency increases have accounted for operating cost reductions totaling at least hundreds of millions of dollars across the nation. And all have been stimulated simply by the threat that competition will emerge in the electricity industry. We believe that actual implementation of competition in the industry will cause suppliers to work harder to find even more efficiency gains and better ways to conduct their businesses, resulting in even greater cost savings for consumers.

For these reasons, we favor a competitive marketplace for electricity and the necessary restructuring of the industry. We favor the enactment of comprehensive federal legislation as quickly as practicable. We think that federal legislation is needed that will allow the flow of the free market economy to deliver the full range of benefits to consumers. We often hear the questions ‘why is federal legislation needed?’ and ‘why not let each state authorize competition, and set the rules needed?’

We firmly believe that comprehensive federal legislation is needed to establish the basic concepts and precepts for a truly competitive marketplace to emerge. Because both electricity and money flow freely across state boundaries, comprehensive federal legislation is needed to establish the basic framework and principles.

In addition, we believe that without federal legislation some states may never arrive at a fully open retail and wholesale market, capable of delivering the wide array of competitive benefits. That may be true here in Virginia and in North Carolina, for example.

We also believe, however, that there are valid differences between and among the states, and that some measures of latitude should be reserved for states to account for local circumstances.

While we favor movement toward competition, we recognize that a change of this magnitude will require careful planning to satisfy adequately the valid concerns of all stakeholders involved.

The recovery of stranded costs perhaps represents the most visible problem.

We think it would be fundamentally unfair and, in fact, flawed in process to simply ignore the valid commitments of the past in an effort to get to competition more quickly. Therefore, we favor inclusion of language in federal legislation that recognizes the equities involved in the stranded costs debate, and that compels states to provide a fair resolution of the issues.

Particularly, we think utilities are entitled to recover their prudently-incurred stranded costs.

We think that contracts entered into by utilities and independent developers should be honored.

And we also think that Congress must realize that failing to address stranded cost issues satisfactorily will also jeopardize thousands of industrial concerns and tens of thousands of jobs which depend on continuation of thermal host contracts with independent power producers.

Industries across America entered into thermal contracts with independent power producers believing, as we do, that “a contract is a contract,” and that good faith commitments would be honored. We think it is essential to preserve trust in our business system by honoring those valid commitments between utilities and independent power producers and between independent power producers and their thermal hosts.

In conclusion, there is a very valid role for the federal government to play in order to manage the establishment of a truly competitive national market for electricity. The establishment of broadly applicable, workable principles during the transition period and beyond is fundamentally important in order to promote a more efficient, integrated process while avoiding 50 differing and conflicting viewpoints offered by the individual states.

I'll be pleased to respond to your questions.

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EXPERIENCE

James E. Franklin is Senior Vice President of Utility Marketing for Cogentrix Energy, Inc. As a senior administrator with marketing responsibilities in the company, Jim's primary responsibilities are marketing in the U.S. and Canada and utility liaison. In the role of liaison, he maintains the "utility friendly" image Cogentrix Energy, Inc.. bases all cogeneration projects on. Jim also assists the various Project Managers in marketing services to utilities.

Mr. Franklin developed his expertise in utility management during his 23 year association with Missouri Public Service. His background includes engineering, operations, utility construction, system planning, fuel procurement and management of administrative functions.

To complement his management skills, Jim served two years with UtiliCorp United in merger and acquisition activities. This training has been beneficial in creating a better understanding of the detail oriented issues necessary to make Cogentrix Energy, Inc. a "utility friendly" corporation.

Cogentrix Energy, Inc. has employed Mr. Franklin since 1989. His commitment to and involvement with the utility industry is exemplary of the relationship Cogentrix Energy, Inc. maintains with the industry.

EDUCATION

Master of Business Administration
ROCKHURST COLLEGE

Master of Science in Electrical Engineering
Bachelor of Science in Electrical Engineering
UNIVERSITY OF MISSOURI

REGISTRATION

Registered Professional Engineer in Missouri

**PROFESSIONAL
AFFILIATIONS**

Electric Generation Association
Charter Board Member
President in 1994
Institute of Electrical and Electronics Engineers
EPRI Utility Advisor Task Force
Edison Electric Institute
Transmission and Distribution Committee
Strategic Planning Committee

NERC Board of Trustees

JAMES E. FRANKLIN

PROFESSIONAL HISTORY

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| 1989 to Present | <p>COGENTRIX ENERGY, INC., Charlotte, North Carolina
Senior Vice President - Marketing</p> <p>Function as liaison between corporation and utility companies and regulators in new construction facilities as well as with the operational cogeneration plants. Work with other Project Managers in the developmental stages of new projects to maintain marketing efforts. Presently responsible for marketing activities in the U.S. and Canada.</p> |
| 1986 to 1989 | <p>MISSOURI PUBLIC SERVICE, Raytown, Missouri
Executive Vice President/Division President</p> <p>Directed the administrative, fiscal and operational management of this public utility serving 200,000 customers with 900 employees. Responsibilities included State and Federal Commission involvement as well as political activities related to Division affairs.</p> |
| 1985 to 1986 | <p>UTILICORP, Kansas City, Missouri
Vice President Engineering</p> <p>Represented the parent company on special projects, evaluating engineering, operations/maintenance and contract activities of utilities companies targeted for merger or acquisition.</p> |
| 1965 to 1985 | <p>MISSOURI PUBLIC SERVICE, Raytown, Missouri
Vice President Engineering and Construction 1984 to 1985</p> <p>Responsible for the overall engineering and construction at all new and existing utility facilities for the Division, as well as system planning in the area of generating capacity expansion and negotiation of capacity purchase contracts.</p> <p>Engineer/Manager/Director 1965 to 1984</p> <p>Handled contract negotiations in securing coal and transportation services. Engineer for numerous major distribution and transmission projects. Responsibilities included system design functions and operational analysis.</p> |

**Disclosure according to Rule XI, clause 2(g)(4) of the Rules of the House
and Rule 4(b)(2) of the Committee on Commerce**

Neither I, nor Cogentrix Energy, Inc., nor Virginia Independent Power Producers, Inc. are the recipients of (1) any federal grant, or subgrant thereof; or (2) any federal contract, or subcontract thereof, during the current fiscal year or either of the two preceding fiscal years.

James E. Franklin
Senior Vice President
Cogentrix Energy, Inc.

April 15, 1997